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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MAGMA HOLDING, INC., a Nevada
corporation; and META LAB, INC. a
Nevada corporation,

Plaintiffs,

vs.

KA TAT “KARTER” AU-YEUNG, an
individual,

Defendant.

AND ALL RELATED MATTERS.

Case No.: 2:20-cv-00406-RFB-BNW

**FIRST AMENDED
REVISED STIPULATED DISCOVERY
PLAN AND SCHEDULING ORDER**

AND

**REQUEST TO RESCHEDULE STATUS
HEARING**

**SPECIAL SCHEDULING REVIEW
REQUESTED**

Defendant/Counterclaimant/Third-Party Plaintiff Ka Tat “Karter” Au-Yeung
 (“Karter”), by and through his counsel, CV3 Legal and Reid Rubinstein & Bogatz; Third-Party
 Defendant/Derivative Counterclaimant Moti Technology Co., LTD (“Moti”), by and through

its counsel, Snell & Wilmer L.L.P.; Third-Party Defendants Qian Xu (“Daniel”) and Yuxiang Gao (“Michael”), by and through their counsel, McNutt Law Firm, P.C., and Kevin Singer, as Receiver for Plaintiffs Magma Holding, Inc. (“Magma”) and Meta Lab, Inc. (“Meta”), by and through his counsel, Hutchison & Steffen, PLLC, hereby respectfully submit this First Amended Revised Stipulated Discovery Plan and Scheduling Order and Request to Reschedule Status Hearing (the “First Amended Revised Scheduling Order and Request to Reschedule Status Hearing”) in the above-referenced case, which, if approved, shall supersede and replace the current Revised Scheduling Order currently on file herein [ECF No. 256]. The Parties submit this First Amended Revised Scheduling Order and Request to Reschedule Status Hearing pursuant to Fed. R. Civ. P. 26(f), Local Rule 26-1, and the Court’s August 18, 2021 instructions [ECF No. 255] and corresponding Minute Order [ECF No. 254].

The reason for this First Amended Revised Scheduling Order and Request to Reschedule Status Hearing is that Karter was recently diagnosed with COVID-19. As a result of this development, meeting the current discovery deadlines became impossible for Karter to meet. Based upon the foregoing, the parties agreed to extend the discovery/briefing/hearing deadlines and dates currently set forth in the Revised Scheduling Order by approximately three (3) weeks. **The new proposed deadlines and dates are set forth herein in bold.**

A. Meet and Confer. Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 26-1(a), a meeting was held on August 24, 2021. The conference was attended by:

Joseph Ganley, Esq. of Hutchison & Steffen, PLLC, Kevin Singer, Scott Yahraus, and Allie Farinacci of Receivership Specialists for District Court Receiver Kevin Singer; Alex Fugazzi, Esq. of Snell & Wilmer L.L.P. for Moti; Daniel McNutt, Esq. and Matt Wolf, Esq. of McNutt Law Firm, P.C. for Daniel and Michael; Keith Barlow, Esq. of Greene Infuso, LLP for Plaintiffs; Scott Bogatz, Esq. of Reid Rubinstein & Bogatz, and Charles Vlasic, Esq. of CV3 Legal for Karter.

B. Discovery Plan.

1. Discoverable Matters. The parties discussed but were unable to agree on the scope

1 of discovery in advance of propounding written discovery requests. Counsel for Moti, Michael,
2 and Daniel, proposed narrow discovery directly limited to issues surrounding the validity and
3 scope of the arbitration clause contained in the Moti's Third Amended and Restated
4 Shareholder's Agreement. Counsel for Karter disagreed and suggested that broader discovery
5 was permissible and that the parties should not be limited in serving written discovery only to
6 issues surrounding the validity and scope of the arbitration clause. Given this disagreement, the
7 parties agreed to propound written discovery on each other and Receiver Singer by Thursday,
8 September 2nd 2021 and to meet-and-confer on those requests during the week of September
9 6th.

10 2. Responses to Discovery Requests. **Responses and objections to discovery are due**
11 **on or before Friday, October 22nd.** The parties agree to meet-and-confer on discovery
12 responses prior to the Court Ordered Status Conference.

13 3. Motion to Compel Arbitration. The parties agreed on a tentative briefing schedule
14 for Moti's renewed Motion to Compel Arbitration. The following schedule is tentative,
15 dependent on whether there remain significant disputes surrounding the **October 22nd**
16 responses to written discovery requests, and will be a subject for discussion with the Court
17 during the Status Conference:

- 18 • **Moti's Opening Brief (tentatively due): Ten (10) days after the rescheduled**
19 **Status Conference;**
- 20 • **Karter's Opposition Brief (tentatively due): Fourteen (14) days after Moti's**
21 **Opening Brief is filed;**
- 22 • **Moti's Reply (tentatively due): Seven (7) days after Karter's Opposition**
23 **Brief is filed.**

24 4. Other Discovery Deadlines. All other deadlines, including but not limited to: (a) the
25 close of discovery; (b) the deadline to amend pleadings and add parties; (c) the deadline to
26 disclose expert witnesses; (d) the deadline to file dispositive motions shall all be established by
27 the Court after the evidentiary hearing on the motion to compel arbitration is held, and the
28

1 motion is decided.

2 **C. Special Scheduling Review.** In accordance with LR 26-1(a), the Parties request a
 3 Special Scheduling Review because the Revised Scheduling Order's form and deadlines differ
 4 from those specified in Fed. R. Civ. P. 26(f) and LR 26-1(b). Specifically, the Revised
 5 Scheduling Order's form and deadlines are different than those established by Fed. R. Civ. P.
 6 26(f) and LR 26-1(b) to comply with the Court's August 18, 2021 instructions [ECF No. 255]
 7 and corresponding Minute Order [ECF No. 254].

8 **D. Request to Reschedule Status Hearing.** Currently, a status hearing is set in
 9 this matter for October 8, 2021 at 11:00 a.m. However, given the additional three (3)
 10 weeks the parties are seeking for the other deadlines in this case, the parties respectfully
 11 request that the Court reschedule the October 8, 2021 status hearing to the first date
 12 convenient for the Court on or after November 8, 2021.

13 Dated this 1st day of October, 2021.

14
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on behalf of Plaintiffs Magma Holdings,
Inc. and Meta Lab Inc.*

ORDER

The Status Hearing currently set for October 8, 2021 at 11:00 a.m. is rescheduled to
November 9, 2021 at 9:00 a.m./p.m and the
remaining deadlines are adopted as set forth above.

IT IS SO ORDERED.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE

DATED: October 1, 2021